

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

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1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D. C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

NEW YORK, N.Y.

LOS ANGELES, CA.

MIAMI, FL.

CHICAGO, IL.

STAMFORD, CT.

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September 15, 1997

**BY HAND**

William Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

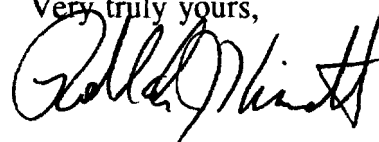
**Re: Comments of Billing Information Concepts Corp.**

Dear Mr. Caton:

Enclosed please find a diskette containing the comments of Billing Information Concepts Corp. filed in *Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129.

Please do not hesitate to contact me at (202) 955-9776 if you have any questions regarding this filing.

Very truly yours,



Rebekah J. Kinnett

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CC Docket No. 94-129

Billing Information Concepts Corp. ("BIC"), by its attorneys, respectfully submits these comments on the Federal Communications Commission's ("FCC" or "Commission") *Further Notice of Proposed Rule Making ("FNPRM")* in the above-referenced proceeding.<sup>1</sup>

<sup>1</sup> *Further Notice of Proposed Rule Making and Memorandum Opinion and Order on Reconsideration*, FCC 97-248 (rel. July 15, 1997).

processes telephone call records and other transactions and collects the related end-user charges from these local telephone companies on behalf of its customers.

BIC's direct dial IXC customers use the company as a billing clearinghouse for processing and collecting calls generated by their end-users. Although such carriers can bill end-users directly, BIC provides a cost-effective means of billing and collecting residential and small commercial accounts through the LECs.

BIC processes telephone call records for customers providing operator services primarily to the hospitality, penal, and private pay telephone industries. In addition, BIC processes records for telephone calls that require operator assistance or alternative billing options such as collect and person-to-person calls, third-party billing, and calling card billing. Because operator services providers have only the billing number and not the name or address of the billed party, they must have access to the services of the LECs to collect their charges. BIC provides this access to its customers through its contractual billing arrangements with the LECs that bill and collect on behalf of these operator service providers.

BIC acts as an aggregator of telephone call records and other transactions from various sources. Because of the large volume of records and transactions that BIC processes, the company receives discounted billing and collection rates from the LECs, which BIC can pass through to its customers. Additionally, BIC provides its services to those IXCs and operator services providers that would not otherwise be able to make the investments in billing and collection agreements with the LECs, or to make commitments in fees, systems, infrastructure, and volume required to establish and maintain the necessary relationships with the LECs.

BIC also provides enhanced billing services for processing transactions related to providers of premium services or products that can be billed through the LECs, including charges for cellular long distance services, paging services, voice mail services, caller ID, and other telecommunications equipment charges. In addition to its billing clearinghouse services, BIC offers billing management services to customers that have their own billing arrangements with the LECs. These management services may include data processing, accounting, end-user customer service, and telecommunication tax processing and reporting.

As a billing clearinghouse with close working relationships with both LECs and IXC's, BIC enthusiastically supports the Commission's efforts to eliminate illegal changes in customer preferred carrier ("PC") selections. Ensuring that customer PC choices are honored by all telecommunications carriers will enable the Commission to achieve its goal of promoting "full and fair competition among telecommunications carriers in the marketplace."<sup>2</sup>

**I. THE FCC SHOULD APPLY THE PC-SELECTION VERIFICATION RULES TO ALL TELECOMMUNICATIONS CARRIERS IN BOTH THE INTEREXCHANGE AND LOCAL MARKETS**

BIC agrees with the Commission's tentative conclusion in the *FNPRM* that existing verification rules should be applied to all telecommunications carriers, in both the interexchange and local markets. Section 258 of the Telecommunications Act of 1996 (the "1996 Act") clearly prohibits slamming by all telecommunications carriers.<sup>3</sup> Accordingly, BIC concurs with the Commission's proposal to incorporate in its rules the language of

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<sup>2</sup> *FNPRM* at ¶ 9.

<sup>3</sup> 47 U.S.C. § 258(a).

Section 258 providing that all carriers that "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service" are subject to the slamming rules. This change in the rules would ensure that both IXC's and LEC's are subject to Section 258, and may be held accountable in connection with any PC-change transactions.

In light of the 1996 Act's express extension of the scope of the slamming rules to include all telecommunications carriers, the Commission should apply the verification rules to the local market "in whole." However, BIC is concerned that the existing verification rules establish insufficient safeguards against possible slamming by incumbent LECS ("ILECs") in the local markets, especially those functioning as both submitting and executing carriers. As the Commission recognizes, the incumbency of the ILECs gives them an advantage over competitive carriers seeking to enter the local markets.<sup>4</sup> Significantly, the ILECs' responsibility for executing PC-change requests for local service from competitive LECs ("CLECs"), as well as for IXC change requests, gives the ILECs access to critical PC-selection information. This access would enable the ILECs to delay or refuse to process PC-change requests from CLECs, and to engage in other anticompetitive activities. Accordingly, the Commission should adopt additional, more stringent verification rules for ILECs, as described more fully below, to ensure that consumers receive sufficient protection against slamming, and that competition in the local markets continues to increase.

Finally, BIC concurs with the Commission's conclusion that Section 258 does not require executing carriers to duplicate the PC-change verification efforts of the submitting

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<sup>4</sup> *FNPRM* at ¶ 15.

carrier.<sup>5</sup> BIC agrees that in most cases the submitting carrier's compliance with the verification rules should facilitate timely and accurate execution of the PC change. However, given the increasing presence of carriers in both the local and long distance markets, BIC suggests that the FCC impose a nondiscrimination requirement on all executing carriers. Such a requirement would, for example, expressly prohibit executing carriers from treating PC-change requests from affiliates differently than requests from all other carriers. This nondiscrimination requirement would prevent anticompetitive behavior of executing carriers without increasing the costs associated with, or the amount of time necessary to execute, a PC change.

## **II. THE FCC SHOULD ADOPT ADDITIONAL VERIFICATION SAFEGUARDS TO PREVENT AND ADDRESS SLAMMING BY INCUMBENT LOCAL EXCHANGE CARRIERS**

In light of the ability of ILECs to engage in anticompetitive behavior, as discussed above, BIC believes that the FCC should subject ILECs to additional safeguards and verification standards that are more stringent than those imposed on competitive LECs and IXC. First, the verification rules should be applied to consumer-initiated "in-bound" calls to ILECs. ILECs receive a large number of in-bound calls, many more than do CLECs. Consumers contact their ILECs regularly, to make repair requests and service and billing inquiries, among other reasons. ILECs can take advantage of these calls to solicit toll PC changes from customers who had not previously considered a change in service providers. Subjecting in-bound calls to ILECs to the verification requirements could protect unprepared consumers from being slammed, and ensure that unprepared customers clearly intend to make

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<sup>5</sup> *Id.* at ¶ 14.

a PC change. Consumer-initiated calls to IXC's, by contrast, are typically generated by consumers intending to make a PC change; thus, subjecting these calls to the verification rules would not prevent many instances of slamming, if any, and would impede legitimate PC changes.

Second, the verification options for PC-change orders submitted by ILECs should be restricted. BIC concurs with the Commission's proposal to eliminate the "welcome package" verification option set forth in Section 64.1100(d), but submits that this option be denied only to ILECs. Section 64.1100(d) generally provides that a carrier can verify a PC-change order by sending an information package to the customer, including a prepaid postcard which the customer must send back to the carrier in order to prevent the change.<sup>6</sup> This operates as a negative-option letter of authorization, and imposes an unreasonable burden on consumers who do not wish to change their PCs: inaction by consumers is not equivalent to an affirmative decision to make a PC change. Thus, in order to protect informed consumer choice, the "welcome package" verification option should not be available for ILECs.

In addition, BIC notes that ILECs serving as both submitting and executing carriers have an enhanced ability to make unauthorized PC changes. Because such transactions involve only a single carrier -- or an ILEC in conjunction with an affiliate -- detection of unauthorized PC changes will be particularly difficult. Accordingly, PC-change orders generated by ILECs serving the dual role of submitting and executing carrier should be limited to neutral third-party PC verification.

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<sup>6</sup> 47 C.F.R. § 64.1100(d).

### **III. PREFERRED CARRIER FREEZES SHOULD BE SUBJECTED TO CERTAIN VERIFICATION PROCEDURES**

Because BIC believes that the Commission is correct in its assertion that PC-freezes may increase the burden of competing carriers in securing new customers, BIC agrees that the verification rules should apply when carriers solicit customers regarding PC-freezes. In addition, BIC would suggest that the Commission limit the duration of PC-freezes, and require that they be renewed on a regular basis in order to remain effective. These proposed measures should provide a necessary degree of consumer protection while allowing the continued growth of competition in the local and long distance markets.

### **IV. SLAMMED CUSTOMERS SHOULD PAY THEIR AUTHORIZED CARRIERS THE AUTHORIZED RATES**

Section 258 of the 1996 Act makes clear that an unauthorized carrier is not entitled to keep any revenues gained from slamming,<sup>7</sup> thereby removing the economic incentives for carriers to slam. However, that section does not address whether subscribers must pay to the authorized carrier any unpaid charges assessed by an unauthorized carrier, or whether charges collected from the unauthorized carrier should be returned to the slammed customer. BIC submits that the Commission should adopt measures that will ensure to the greatest extent possible that neither the authorized carrier nor the slammed customer is harmed as a result of the slamming. BIC, therefore, strongly opposes the suggestion that the slammed customer be absolved from liability for unpaid charges. Rather, the slammed customer should be required to pay only the amount that the customer would have paid to the authorized carrier. Although absolving the slammed consumer from liability could provide

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<sup>7</sup> 47 U.S.C. § 258(b).



additional disincentives to slam, it would also almost certainly encourage consumer fraud. Slammed consumers would have every incentive to continue receiving service from the unauthorized carrier for as long as possible, so as to avoid having to pay any fees for network services.

In the event that the slammed customer pays assessed charges to the unauthorized carrier, the unauthorized carrier should forward such fees to the authorized carrier. If the charge exceeds the amount the authorized carrier would have charged, the authorized carrier should refund the difference to the consumer. In addition, the authorized carrier should restore to the slammed customer any discounts, credits, and, within reason, any premiums lost by the customer. The unauthorized carrier should be held liable for the cost of such discounts, credits, and premiums. However, BIC opposes the suggestion that the unauthorized carrier should be liable to the authorized carrier for expenses incurred to collect these charges. Such expenses are difficult to verify, and are not necessary to discourage slamming. The liability of the unauthorized carrier for the service charges as well as the cost of the lost discounts, credits, and premiums should provide sufficient disincentives to slam.

**V. RULES CONCERNING NOTIFICATION OF A CHANGE IN A RESALE CARRIER'S UNDERLYING CARRIER IS NOT A SLAMMING ISSUE, AND SHOULD NOT BE ADDRESSED IN THIS PROCEEDING**

BIC appreciates the Commission's desire to ensure that consumers who choose a resale carrier based on the resale carrier's identification of its underlying facilities-based network provider are notified when the underlying network provider is changed. However, BIC respectfully submits that a reseller's failure to disclose a change in the underlying

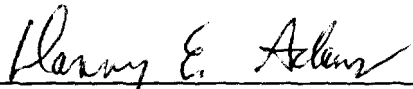
provider is not a slamming issue; it is, rather, a deceptive advertising issue, and would be more appropriately addressed in a different proceeding.

## **VI. CONCLUSION**

BIC applauds the Commission's efforts to eliminate slamming, and, as discussed above, generally supports the Commission's proposals in the *FNPRM* as a means of achieving this goal.

Respectfully submitted,

**BILLING INFORMATION CONCEPTS CORP.**

By:   
Danny E. Adams  
Rebekah J. Kinnett  
KELLEY DRYE & WARREN LLP  
1200 19TH Street, N.W.  
Suite 500  
Washington, D.C. 20036  
(202) 955-9600

September 15, 1997

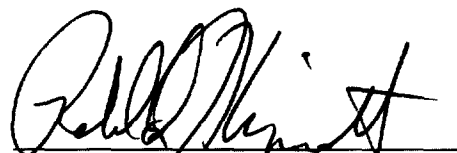
## **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Comments of Billing Information Concepts Corp. were served by hand this 15th day of September, 1997 on the following:

Cathy Seidel  
Common Carrier Bureau  
Federal Communications Commission  
2025 M Street, N.W.  
Room 6120  
Washington, D.C. 20554

Formal Complaints Branch  
Enforcement Division  
Common Carrier Bureau  
Federal Communications Commission  
Mail Stop 1600A1  
Washington, D.C. 20554

International Transcription Services, Inc.  
1231 20th Street, N.W.  
Washington, D.C. 20037

  
Rebekah J. Kinnett